



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

JAN 24 2014

VIA FIRST CLASS MAIL

Joan Stearns, Treasurer
Friends of Cliff Stearns
P. O. Box 308
Silver Springs, FL 34489

RE: MUR 6610
Friends of Cliff Stearns
and Joan Stearns as treasurer

Dear Mrs. Stearns:

On July 25, 2012, the Federal Election Commission notified Friends of Cliff Stearns and its treasurer (collectively the "Committee") of a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations. On January 16, 2014, the Commission found, on the basis of the information in the complaint, and information provided by the Committee, that there is no reason to believe that the Committee and its treasurer in her official capacity violated the Act and underlying Commission regulations, as alleged in the complaint. Accordingly, the Commission closed its file in this matter on January 16, 2014.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Ruth Heilizer, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

General Counsel

BY: Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Enclosure:
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Friends of Cliff Stearns
Joan Stearns as treasurer
Clifford B. "Cliff" Stearns

MUR 6610

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I. INTRODUCTION

This matter was generated by a Complaint filed by David Wolfson alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act") and underlying Commission regulations by Friends of Cliff Stearns and Joan Stearns in her official capacity as treasurer¹ (collectively the "Committee") and Clifford B. "Cliff" Stearns. After reviewing the record, the Commission found no reason to believe Mr. Stearns² and the Committee and its treasurer in her official capacity violated the Act and underlying Commission regulations as to the allegations in the Complaint.

II. FACTUAL & LEGAL ANALYSIS

In this matter, the Complaint alleges violations of the Act and Commission regulations through May 2012 in connection with e-mails transmitted by the Committee and information displayed on its website. Compl. at 1, 4, 8, 12.³ First, the Complaint alleges that three Committee "bulk electronic mail communication[s]" allegedly transmitted on February 7, 9, and

¹ According to the Committee's amended Statement of Organization, filed on April 6, 2013, Joan Stearns replaced Juanita Ransom as treasurer. Ms. Ransom was the Committee's treasurer during the time period covered in this Report and filed a Response on behalf of the Committee, *see infra*.

² Stearns was an unsuccessful candidate for re-election in the 2012 Republican primary for Florida's 3rd Congressional District.

³ Complainant filed four separately notarized Complaints on the same day. Although each Complaint attaches different communications, we are treating them as a single Complaint since three contain similar text and the fourth alleges another disclaimer violation by the same Committee. None of the Complaints contain page numbers so, for the Commission's convenience, we are including a paginated version of the combined Complaints as Attachment 1.

1 10, 2012, do not comply with the Commission's disclaimer provisions under the Act. *Id.*
2 Specifically, the Complaint claims the e-mails violated 11 C.F.R. § 110.11(b)(1), *id.*, which
3 states that if a communication that requires a disclaimer is paid for and authorized by a
4 candidate's authorized committee, the disclaimer notice must identify the committee that paid for
5 the message. Copies of the three e-mails at issue are attached to the Complaint. *Id.* at 2-3, 5-7,
6 9-11. Second, the Complaint claims that, as of May 9, 2012, the Committee's website lacked a
7 disclaimer required by 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(b)(1). *Id.* at 12.

8 The Complaint also claims that the Committee's website violated 11 C.F.R.
9 § 102.5(a)(2)(ii) and (iii) by failing to "provide appropriate and compliant disclosure statement
10 [*sic*] pertaining to contributions to the federal campaign account." Compl. at 12. The Complaint
11 asserts that instead of providing the allegedly required "disclosure statement," the "campaign
12 website linked to an outside vendor" that "does not make an effort to ensure contributions are in
13 compliance with FECA regulations prohibiting contributions from 'corporations, labor
14 organizations, federal government contractors and foreign nationals.'" *Id.*

15 In response, Respondents Cliff Stearns and his Committee state that the three e-mails
16 "were all press releases, sent only to the Friends of Cliff Stearns press list, which at no time has
17 had more than 57 recipients." Resp. at 1. Respondents contend that disclaimers were not
18 required because the applicable regulation applies only to e-mails "of more than 500
19 substantially similar communications." *Id.* (quoting 11 C.F.R. § 110.11(a)(1)).

20 With respect to disclaimers on the Committee's website, Respondents state that the
21 "proper disclaimer" was included on the "homepage and was clearly visible to anyone logging

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1 on to the website.”⁴ Resp. at 1. According to Respondents, “[t]he fact that the complainant’s
2 particular screenshots do not show a disclaimer fail to demonstrate that one did not exist.” *Id.*
3 Finally, in reference to the Complaint’s allegation concerning the Committee’s outside vendor,
4 Respondents take the position that the cited regulations apply to “a federal committee,” not an
5 outside vendor. *Id.* at 1-2 (emphasis omitted).

6 Under 2 U.S.C. § 441d(a), political committees must provide disclaimers for certain
7 communications. When a communication as described in 11 C.F.R. § 110.11(a), including a
8 solicitation, is paid for and authorized by a candidate, an authorized committee of a candidate, or
9 an agent of either, the disclaimer must clearly state that the communication has been paid for by
10 the authorized political committee. *Id.* § 110.11(b)(1). These disclaimer requirements apply to
11 political committee websites available to the general public and substantially similar e-mails
12 numbering in excess of 500. *Id.* § 110.11(a)(1).

13 Respondents claim that none of their e-mails were sent to more than 57 recipients. As
14 such, without any information to the contrary, it cannot be concluded that the e-mails at issue
15 were required to contain disclaimers. In addition, based on the available information, it does not
16 appear that the Committee’s website lacked the requisite disclaimer at the time the Complaint
17 was filed. *See* Resp. at 1; *supra* n. 4.

18 The Complaint further alleges that the Committee violated section 102.5. That section
19 covers “organization[s] . . . that finance[] political activity in connection with *both* Federal and
20 non-Federal elections.” 11 C.F.R. § 102.5(a)(1) (emphasis added). Such organizations that opt

⁴ The Response states that the “selected screenshots” appended to the Complaint were taken from a website that “no longer exists” and was “replaced by a new website in June, 2012.” Resp. at 1. Neither the Complaint nor the Response includes a screenshot of the Committee’s homepage as it existed at the time of the Complaint. The homepage currently available on the Committee’s website displays the disclaimer, “Paid for by Friends of Cliff Stearns, Copyright 2012.” *See* <http://cliffstearns.net> (last visited August 14, 2013).

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1 to create a separate federal account in a depository, *see* 11 C.F.R. § 102.5(a)(1)(i), may only
2 deposit contributions into the federal account if one of three conditions is met: The contributions
3 (i) were designated for the federal account; (ii) resulted from a solicitation that expressly states
4 the contribution will be used in connection with a federal election; or (iii) were given by
5 contributors who were informed that all contributions are subject to the prohibitions and
6 limitations of the Act. 11 C.F.R. § 102.5(a)(2)(i)-(iii). *See* Explanation and Justification for
7 *Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money*, 67 Fed. Reg.
8 49,064, 49,073 (July 29, 2002) (explaining that the purpose of section 102.5(a)(2) is to ensure
9 that contributors to federal accounts know the intended use of their contributions). Here, there is
10 no indication that the Committee “finances political activity in connection with both Federal and
11 non-Federal elections.” 11 C.F.R. § 102.5(a)(1). The Committee therefore falls outside the
12 scope of section 102.5.⁵

13 Thus, the Commission found there was no reason to believe Friends of Cliff Stearns and
14 Joan Stearns in her official capacity as treasurer violated the Act and underlying Commission
15 regulations, as alleged in the Complaint. In addition, with respect to Mr. Stearns individually,
16 the Commission found there was no reason to believe he violated the Act and underlying
17 Commission regulations, as alleged in the Complaint.

⁵ Moreover, although “Commission regulations require committee treasurers to examine ‘all contributions received for evidence of illegality . . . [see] 11 CFR 103.3(b),’ [t]his requirement applies to contributions once they have been *received* by the committee” (emphasis in original). Advisory Op. 2011-13 (Democratic Senatorial Campaign Committee) at 4. And, when soliciting contributions online, federal political committees may post language “to ensure that contributions are not accepted from prohibited sources” as a safeguard, but “no particular notice of this type is required by the Act and Commission regulations.” *Id.*